

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

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ORETHA BEH, RUBY CASON, BRIANA  
KINCANNON and KIMBERLY BALKUM,  
individually and on behalf of all persons  
similarly situated,

Plaintiffs,

-versus-

No. 19-cv-1417-LJV

COMMUNITY CARE COMPANIONS INC.,  
ALEXANDER J. CARO, MARK GATIEN,  
INTERIM HEALTHCARE OF ROCHESTER,  
INC., and JAMES WATSON,

**DECLARATION OF  
AVIS BROWN**

Defendants,  
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AVIS BROWN, under penalty of perjury that the following is true and correct, states:

1. I am a Home Health Aide (“HHA”) employed by Community Care Companions, Inc. (“CCC”). I was hired in or about October 2017 by Interim Healthcare of Rochester, Inc. (“Interim”) as an HHA, then shortly after that hired by CCC to continue working as an HHA.

2. As an HHA, my duties include ensuring clients take their medications properly and assisting them in the taking of their medications, helping clients get out of and into bed, assisting in preparation of clients’ meals, helping them to eat, maintaining their hygiene, taking clients to medical or other appointments, and other duties.

3. For approximately a year, I have attended meetings with other HHAs and Personal Care Assistants (“PCA”) (collectively, “home care workers”) in the Buffalo area. This has included home care workers who are employed by CCC. Home care workers at these meetings regularly talk about their working conditions and their experiences in doing home care work. I have also had one-on-one conversations with CCC employees at these meetings, where

we talked about working conditions and the subjects I describe in this Declaration. In addition, I have met other home care workers employed by CCC at the company's office, and we have occasionally discussed working conditions and the subjects I describe in this Declaration.

4. I regularly go to the CCC office, which is currently located at 69 Delaware Ave, Suite 1200, Buffalo, NY 14202. I go to the CCC office to turn in time sheets every week, to ensure I got paid for that week's work. The time sheets record the hours I have worked at CCC's clients' residences in the previous week. Other CCC home care workers also have to go to the office to drop off time sheets and to pick up paychecks if they do not have direct deposit.

5. In 2017 and 2018, I and other CCC workers were required to perform in-service trainings at home. The company gave us training materials four times per year, and we were required to complete the training at home on our own time. The training materials included a certain amount of reading material that we were required to read, as well as a written question section that we were required to complete. After completing both the reading and writing portions of the training materials, we were required to mail the written section back to the employer's office, or drop it off at the company's office in person. It took me approximately two hours or more to complete both the reading and written portions of each training. This policy continued after Interim was bought by CCC in late 2017, and lasted until the start of 2019, when we were required to come to the CCC office for a training. When we were required to complete the in-service trainings at home, we were never compensated for the time it took us to complete the trainings.

6. CCC regularly communicates with me using my cell phone, through both phone calls and text messages. This is true of other CCC home care workers as well.

7. In performing my home care duties, I regularly work in the residences of CCC's clients by myself. This is true of other CCC home care workers as well.

8. I have performed home care duties at the residences of CCC clients within the geographic area of Buffalo, NY.

9. Approximately five workdays every week, I am required to travel from one client's residence to another client's residence. On these days, I have to travel between one client and another. On at least two days every week, I then travel from the second client's residence to a third client's residence. Each one of these trips between clients takes at least 30 minutes. On at least one day every week, I have a gap of two and a half hours between clients. On those days, I do not have time to go home, so I travel between the clients' residences and wait until my scheduled time at the next client begins.

10. I spend at least five hours traveling per week as a result of traveling between these clients' homes. When traveling between clients, I use the bus, or, more often, pay for a cab or rideshare in order to get to the next client's home in time for the beginning of my scheduled time. I use a bus between clients at least once a week. On those days, I have to buy daily bus passes, which cost \$5 each. I do not receive any compensation for any of this travel time nor am I compensated for my out-of-pocket expenses relating to this travel.

11. I know from talking to many other CCC home care workers that many of them have to travel between clients' residences multiple times a week and that they are not compensated for this travel time.

12. I am required to wear sets of scrubs to perform home care work for CCC. I own approximately 40 pairs of scrubs at a time. I buy approximately four pairs of scrubs every year. Each pair of scrubs costs at least \$50. I am required to keep the scrubs clean. I cleaned the

scrubs every week. I cleaned the scrubs separately from my other clothes because of the bodily fluids that often wind up on the scrubs. I had to go to a laundromat to clean and dry the scrubs. It costs me approximately \$8 to use a washer and dryer, plus the cost of laundry soap and bleach. It takes me approximately 3 hours to travel to a laundromat, wash and dry the clothes, and go home.

13. I have never been compensated by CCC for the cost of the uniforms, any of the expenses related to cleaning them, or for the time it takes me to clean and dry them. Other CCC home care workers I have spoken to also have never been compensated for these expenses or the time spent on cleaning and drying their uniforms.

14. In most workweeks, I am scheduled to work between 32 and 40 hours, but this does not include time spent on travel between clients' residences or my time spent on cleaning and drying my scrubs. I am not compensated for this regular "unscheduled" work. When my time spent on uncompensated work is added to my scheduled hours, I usually work more than forty (40) hours per week. Because I am not compensated for my time traveling between clients' residences and my time spent on cleaning and drying scrubs, I am not compensated at one and one-half times my regular rate of pay for my hours worked each week above forty (40) hours. This overtime compensation problem was made worse in the weeks before 2019 when I was required to participate in training sessions because I was not compensated for the time spent on those sessions.

15. From talking to many other CCC home care workers, I know that they are subject to the same overtime compensation problem: most are forced to spend several hours per week on travel between clients' residences and on cleaning and drying their scrubs. As a consequence, many regularly work more than forty (40) hours in a week but, because they are not compensated

for that time, they are not paid at one and one-half times their regular rates of pay for each hour worked each week in excess of forty (40) hours. As with me, this problem was aggravated in the weeks when each of the other home care workers was required to participate in training sessions, because the other CCC home care workers were also not compensated for this work before 2019.

I declare under penalty of perjury that the foregoing is true and correct.

Executed

12/19/19



Avis Brown